

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, January 4, 2022, at 7:00 p.m., with the following members present:

Tony Wood	Hank Guess	David Williams
Charlotte C. Williams	Aldermen	David P. Zagaroli
Danny Seaver		Jill Patton

A quorum was present.

Also present were City Manager Warren Wood, Assistant City Manager Rick Beasley, City Attorney John W. Crone, III, Deputy City Clerk Crystal B. Mundy and City Clerk Debbie D. Miller

I. Mayor Guess called the meeting to order. All Council members were present.

II. Invocation by Reverend David Roberts, Morning Star First Baptist Church

III. Pledge of Allegiance

IV. Special Presentations

V. Persons Requesting to Be Heard

VI. Approval of Minutes

A. Regular Meeting of December 21, 2021.

Alderwoman Patton moved, seconded by Alderman Seaver that the Minutes of December 21, 2021, be approved. The motion carried unanimously.

VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.

Alderwoman Patton moved, seconded by Alderwoman Williams that the following be reaffirmed and ratified on second reading. The motion carried unanimously.

A. Budget Revision Number 10. (First Reading Vote: Unanimous)

VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.

Alderwoman Patton moved, seconded by Alderman Zagaroli approval of the Consent Agenda. The motion carried unanimously.

A. Approved Change Order One with SEPI Construction Engineering and Inspection in an Amount not to Exceed \$193,825.64.

Staff requests Council's approval of change order one with SEPI Construction Engineering and Inspection for additional professional services related to the City Walk Project in an amount not to exceed \$193,825.64. The City Walk project is partially funded by United States Department of Transportation (USDOT) funding that is passed down through North Carolina Department of Transportation (NCDOT). The funding for this project is appointed to predominately 80 percent NCDOT and 20 percent City of Hickory respectively. NCDOT requires that recipients hire a separate engineering firm to perform construction, engineering, and inspection services from the design firm for oversight, materials testing and record keeping. This practice is intended to provide unbiased oversight on all NCDOT projects. The change order is due to the extended length of the project due to unforeseen design issues that resulted in project time being extended and extended workload to SEPI Engineering and Construction Services. Fees are eligible for reimbursement with NCDOT funds at the same ratio of 80 percent NCDOT and 20 percent City of Hickory. Staff recommends Council's approval of change order one with SEPI Engineering and Construction in an amount not to exceed \$193,825.64

B. Accepted the Adapting Technology Grant Funds in the Amount of \$40,000 from the State Library of North Carolina.

Staff requests acceptance of \$40,000 from the State Library of North Carolina through the Adapting Technology grant program. Hickory Public Library offers study rooms and community meeting rooms for the public at both library locations. During the COVID-19 pandemic, the need to host virtual meetings and hybrid programs has grown, for both library patrons and for events and classes offered by the library. To offer high quality virtual programs and meetings the Library needs improved videoconferencing technology in each of the meeting & study spaces. The State Library of North Carolina is providing grant funds for technology to improve library operations, especially in support of education, health, and workforce development needs; and/or to respond to the pandemic and to implement public health protocols. The maximum grant amount is \$40,000. The \$40,000 grant will allow library staff to purchase equipment needed to accommodate

virtual and hybrid meetings for education, health, and workforce development. No matching funds are required. Staff recommends acceptance of the Adapting Technology grant funds.

- C. Approved the Certificate of Sufficiency and Preliminary Resolution Relative to Street Improvements for Curb and Gutter along a Portion of 17th Street NE, Petition No. 22-01. (Authorized Public Hearing for February 1, 2022, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building).

RESOLUTION NO. 22-01

PRELIMINARY RESOLUTION
OF THE CITY COUNCIL OF THE CITY OF HICKORY
(NO. 22-01)

WHEREAS, on the 20th day of December 2021, property owners of 2510 and 2520 17th Street NE, Hickory, filed with the City Engineer of the City of Hickory a petition for improving said street by placing and constructing thereon curb and gutter according to plans and specifications on file in the Office of the City Engineer; and

WHEREAS, the City Clerk has certified to this Board that said petition is sufficient in all respects.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HICKORY:

1. That the above-mentioned petition is found to be sufficient in all respects.
2. That, that portion of 2510 and 2520 17th Street NE, Hickory be improved by placing and constructing thereon curb and gutter in accordance with plans and specifications on file in the Office of the City Engineer under and by virtue of Chapter 160A, Article 10 of the General Statutes of North Carolina, and that said improvements be done by the City of Hickory or by contract after due notice and advertisement for bids, as outlined by Chapter 143, Section 129 of the General Statutes of North Carolina.
3. That 50 percent of the total cost of the said improvements may be assessed against the property receiving the improvement for constructing curb and gutter \$28.50 per linear foot for a total of 338 per linear foot excluding driveway cuts and \$57.25 per linear foot of driveway apron measured at its narrowest point for a total of 30 linear foot of driveway apron.
4. That the assessment herein provided for shall be payable in cash, or if the property owners shall so elect, in accordance with Chapter 160A, Sections 232 and 233 of the General Statutes of North Carolina, they shall have the option and privilege of paying the assessment in five (5) equal annual installments, to bear interest at the rate of 8 percent per annum.
5. That a public hearing on all matters covered by this resolution shall be held on February 1, 2022, at 7:00 p.m. in the Council Chamber of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina.

- D. Approved a Right of Way Settlement Agreement with North Carolina Department of Transportation for Property Located at 1241 Highway 321 NW in the Amount of \$96,650.

Staff requests City Council's approval of a right of way settlement with North Carolina Department of Transportation (NCDOT) for property located at 1241 Highway 321 NW. As part of the US 321 widening project, the NCDOT is purchasing right of way and utility easements on several City properties. This agreement is the fourth City-owned property to get to the settlement stage. The property is located at 1241 Highway 321 NW and will house the parking area and approach to the pedestrian bridge that will be constructed as part of the Aviation Walk project. The parcel is further identified as PIN 279312765274. A portion of the property will be taken for drainage, utility, and temporary construction easements. No right of way will be purchased from this parcel. The value of the 0.073-acre temporary construction easement is estimated at \$9,025. The estimated value of the 0.012-acre permanent drainage easement and 0.023-acre utility easement is \$7,650. Based on the overall appraised value of the land, the additional reduction in value to the remainder of the site after the road widening project is estimated at \$79,975. The total difference in the current value of the entire property and the value after the purchase of the easements construction of the road project is \$96,650. The property will be used as a parking area, open space, and house the approach area for the bridge over US 321. The sale of these easements should not have a negative effect on the Aviation Walk project. Staff recommends the approval of the right of way agreement with NC DOT in the amount of \$96,650.

- E. Approved a Professional Services Agreement with Civil & Environmental Consultants, Inc. in the Amount of \$99,500 for Trivium East Due Diligence Services.

Staff requests Council's approval of a Professional Services Agreement proposal with Civil & Environmental Consultants, Inc., in the amount of \$99,500 for Trivium East due diligence services. Trivium Corporate Center is the business park recognized in the Bond projects to receive money from bond proceeds for development. The City, County and EDC have worked on development of the project to a condition that is receptive to marketing. As the original Trivium site has been successful and only three lots remain, the partnership has purchased additional properties to expand the success of the business park. This phase of the project will consist of Master Planning Services to help identify the potential building layouts of the site, configurations, renderings, and marketability. The ecological study, mapping, jurisdictional water determination, protected species habitat and applicable report will also be included in the due diligence. Surveying, asbestos demolition and well abandonment will also be included in this agreement. Staff recommends Council's approval of a Professional Services Agreement proposal with Civil & Environmental Consultants, Inc., in the amount of \$99,500 for Trivium East due diligence services.

- F. Approved an Additional Service Agreement with McGill and Associates in the Lump Sum Amount of \$6,500 and Cost Plus for Tasks 2 through 4.

Staff requests Council's approval of an additional Service Agreement with McGill and Associates for the design and construction administration of the McLin and Lyle Creek Wastewater Outfall Project in the amount of \$6,500 and cost plus for tasks 2 through 4. In 2011 the City of Hickory in partnership with Catawba County, the City of Conover, and the City of Claremont made a joint venture with Davis and Floyd Engineering for a basin wide analysis of this area. During the study, five different scenarios were developed, and a consensus made upon the group for the future routes to be pursued. In 2015 McGill Associates performed the initial pump station design and permitting at the Hickory-Catawba Wastewater Treatment Facility (WWTF). The City of Hickory and the City of Claremont have been discussing and negotiating this agreement since the study and PER was completed by Davis and Floyd. During the initial design, additional permitting constraints have been discovered. FERC assistance, land appraisal and platting, along with Lake Services crossing permits were not originally part of the project. This additional services agreement is meant to continue the work on the project in a cost effective and expedient manner. Staff recommends approval of an additional Service Agreement with McGill and Associates for the design and construction administration of the McLin and Lyle Creek Wastewater Outfall Project in the amount of \$6,500 and cost plus for tasks 2 through 4.

- G. Approved the Resolution Regarding the Condemnation of Properties for Temporary and Permanent Easements and Rights of Way for Construction of a Multi-Use Path System for the OLLE Art Walk.

Staff requests Council's consideration of a Resolution Regarding Condemnation of Properties for Temporary and Permanent Easements and Right-of-Ways for Construction of a Multi-use Path System (OLLE Art Walk). The OLLE Art Walk is part of the larger Hickory Trail multiuse path system and bond program that seeks to increase quality of life for residents and spur economic revitalization by providing pedestrian and bicycle connectivity throughout the City. The OLLE Art Walk will create a connection between City Walk, via 9th Street NW and Old Lenoir Road, and Aviation Walk and the Riverwalk. Per North Carolina General Statutes Chapter 40A the City of Hickory has the power of eminent domain to acquire any property to improve streets, sidewalks, and establish or improve recreational facilities. The City has found it is in the public interest to acquire certain easements and rights-of-way for the construction of the mile, 10-foot-wide multi-use pathway for pedestrian and bicycle connectivity from the City Walk to the Riverwalk via 9th Street NW and Old Lenoir Road. The proposed resolution authorizes staff and legal counsel to institute the condemnation proceedings on these properties. Staff recommends Council's approval of the Resolution Regarding Condemnation of Properties for Temporary and Permanent Easements and Right-of-Ways for Construction of a Multi-use Path System for the OLLE Art Walk.

RESOLUTION 22-02

RESOLUTION OF THE HICKORY CITY COUNCIL REGARDING CONDEMNATION OF PROPERTIES FOR TEMPORARY AND PERMANENT EASEMENTS AND RIGHT-OF-WAYS FOR CONSTRUCTION OF A MULTI-USE PATH SYSTEM

RECITALS:

WHEREAS, the City of Hickory (the "City") has the power of eminent domain and may acquire by purchase, gift, or condemnation any property for the purposes of, among other things, opening, widening, extending, or improving roads, streets, alleys, and sidewalks and establishing, enlarging, or improving parks, playgrounds, and other recreational facilities; and

WHEREAS, the City is authorized to institute any and all necessary legal actions under Chapter 40A of the North Carolina General Statutes to condemn and appropriate easements and rights-of-way for the above stated purposes; and

WHEREAS, the City has determined that it is necessary and in the public interest to acquire certain easements, either on a temporary or permanent basis, and fee simple rights-of-way in properties located in Hickory, North Carolina for the purpose of constructing a 10-foot-wide multi-use pathway to connect City Walk, Aviation Walk and Riverwalk. 0. The pathway will travel from the City Walk following 9th Street NW and Old Lenoir Road to connect with Riverwalk, as generally shown on the Overall Plan and Key Sheet prepared by Vaughn and Melton Consulting Engineers, Inc. , a copy of which is attached hereto as Exhibit A (the "Project"). The pathway is commonly referred to as the "OLLE Art Walk. The City has determined that the taking is reasonably necessary to provide pedestrian and bicycle connectivity from the City Walk to Riverwalk; and

WHEREAS, the City finds that the acquisition, expansion and improvement of easements and rights-of-way over Lot Nos. 3 and 25 as shown on the plats prepared by Vaughn and Melton Consulting Engineers, Inc.; copies of which are attached hereto as Exhibit B, is necessary and serves a public purpose of improving the function and appearance of those areas and serves to provide bicycle and pedestrian connectivity and safety in the Project area; and

WHEREAS, the City has determined that it will be necessary to acquire by condemnation, either on a temporary or permanent basis, portions Lot Nos. 3 and 25 as shown on Exhibit B (the "Condemned Properties") to complete the Project.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City adopts as true and correct the foregoing recitals and incorporates them as findings herein.
2. For the purposes specified above, it is necessary, practical, and in the best interest of the public and the City that the City acquire, in its name, such easements, either on a temporary or permanent basis, and fee simple rights-of-way in the Condemned Properties as may be required and which are necessary for completion of the Project.
3. The City, its officers, employees and attorneys, including designated outside counsel, be and are hereby authorized and directed to proceed to take the necessary steps to institute and prosecute such necessary actions and proceed as may be proper for the acquisition of easements, either on a temporary or permanent basis, and fee simple rights-of-way in said Condemned Properties by eminent domain proceedings pursuant to Chapter 40A of the North Carolina General Statutes, and to prepare, sign, execute, serve, publish and file in the name of the City all eminent domain papers, affidavits and pleadings and said attorneys are authorized to have prepared such other instruments and documents as may be necessary in connection therewith.
4. The City finds and determines that the Condemned Properties are necessary for the public purposes of construction of the Project and hereby authorizes the acquisition of said Condemned Properties by eminent domain proceedings. The City further authorizes the City attorney, her staff or designated outside counsel to correct minor errors or scrivener's errors to said descriptions, if any, with regard to the condemnation proceeding without further action of this council.
5. The City Director is authorized to have the construction plans updated, revised, or corrected, and to utilize such plans in the condemnation action, including committing to said plans, updates, revisions, or corrections, without further action by this council.
6. The City finds and determines that just compensation for the taking of the Condemned Properties in each particular case is as follows:
 - A. BEGUM CORPORATION
PARCEL 3
DB 3137, PG 1447
TAX P.I.N. 370317109906
Just Compensation for Take of Interests in Parcel 3: \$6,150.00

B. WILLIAM D. HELTON
PARCEL 25
DB 3635, PG 0347
TAX P.I.N. 279316935671
Just Compensation for Take of Interests in Parcel 25: \$3,850.00

THIS RESOLUTION shall become effective immediately upon adoption.

H. Approved on First Reading Budget Revision Number 11.

ORDINANCE NO. 22-01
BUDGET REVISION NUMBER 11

BE IT ORDAINED by the Governing Board of the City of Hickory that, pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2022, and for the duration of the Project Ordinances noted herein.

SECTION 1. To amend the General Fund within the FY 2021-22 Budget Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Culture & Recreation	40,000	-
Other Financing Uses	88,515	-
TOTAL	128,515	-

To provide funding for the above, the General Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental	40,000	-
Other Financing Sources	88,515	-
TOTAL	128,515	-

SECTION 2. To amend the Water/Sewer Fund within the FY 2021-22 Budget Ordinance the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Uses	6,500	-
TOTAL	6,500	-

To provide funding for the above, the Water/Sewer Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	6,500	-
TOTAL	6,500	-

SECTION 3. To amend the McLin and Lyle Creek Wastewater Outfall Project (#803305) Capital Project Ordinance, the expenditure shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Water and Sewer Capital Projects	6,500	-
TOTAL	6,500	-

To provide funding for the above, the McLin and Lyle Creek Wastewater Outfall Project (#803305) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	6,500	-
TOTAL	6,500	-

SECTION 4. To amend the Trivium Corporate Center Project Enzyme (#B1B003) Capital Project Ordinance, the expenditure shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	99,500	-
TOTAL	99,500	-

To provide funding for the above, the Trivium Corporate Center Project Enzyme (#B1B003) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
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Other Financing Sources	49,750	-
Restricted Intergovernmental	49,750	-
TOTAL	99,500	-

SECTION 5. To amend the City Walk (#B1C001) Capital Project Ordinance, the expenditure shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
General Capital Projects	193,826	-
TOTAL	193,826	-

To provide funding for the above, the City Walk (#B1C001) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	38,765	-
Restricted Intergovernmental	155,061	-
TOTAL	193,826	-

SECTION 6. Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

- IX. Items Removed from Consent Agenda – None
- X. Informational Item
- XI. New Business:

A. Public Hearings

1. Approved on First Reading Continuation of the Public Hearing for Consideration of Rezoning Petition Number 21-08 for Property Located at 3320, 3326, 3330, and 3342 9th Avenue Drive NW, from R-1 Residential to Neighborhood Center Commercial (NC) – Presentation by Planning Director Brian Frazier.

Winkler’s Grove Baptist Church has submitted a petition requesting the rezoning of its property located at 3320, 3326, 3330 and 3342 9th Avenue Drive NW, from R-1 Residential to Neighborhood Center Commercial (NC). The properties under consideration for rezoning are occupied by a church, auxiliary buildings, and a parking lot. The rezoning request is intended to establish zoning that would provide greater flexibility in the future development of the church campus. The subject properties are zoned Low Density Residential (R-1) and are +/- 13.57 acres in total size. The current zoning is primarily intended for lower intensity residential uses, at a maximum density of two dwelling units per acre. While, residential is the primary purpose of the district, other uses including churches are also permissible. Should the properties be rezoned to Neighborhood Center Commercial (NC), residential uses would still be permissible, although at higher intensities and forms. The major difference would be the potential to establish retail and office uses in addition to residential. Residential intensities within NC districts are permissible at a rate of thirty dwelling units per acre, and non-residential development is permissible at a floor area ratio (FAR) of 2:1. The Hickory Regional Planning Commission conducted a public hearing on December 1, 2021, to consider the petition. During the public hearing, the property owner spoke in favor of the petition, while no one spoke in opposition. Upon closing the public hearing, the Hickory Regional Planning Commission voted 6 to 3 to affirm the petition’s inconsistency with the Hickory by Choice 2030 Comprehensive Plan, and recommended City Council’s disapproval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 10, 2021, and December 17, 2021.

Mayor Guess advised the first public hearing was a continuation from Council’s last meeting in December. They opened the public hearing and at the request from Winkler’s Grove Baptist Church they continued it because they had a function that night and were unable to attend the meeting to speak. He advised he wanted to make full disclosure that he was a member of Winkler’s Grove Baptist Church. He referred to City Attorney John Crone and asked City Attorney Crone to advise him if he should continue with the public hearing or if he should recuse himself.

City Attorney John Crone advised that Mayor Guess had called him, as Council members call him from time to time, and as the City’s Code required if they so

desired, to ask for an opinion from the City Attorney. He had advised Mayor Guess, in accordance with Statute 160A-75, that he had a statutory duty to vote on all matters that come before him, even where there was an appearance of a conflict, and only to refrain from voting where there was a legal bases or requirement to be excused from voting. He had asked Mayor Guess and Mayor Guess had responded in the negative that he reaped no direct or indirect monetary or pituitary interest. Mayor Guess attending the church or being involved in the church, in whatever manner it was, and as such, City Attorney Crone had advised Mayor Guess that he had duty to vote in this situation.

Mayor Guess thanked City Attorney Crone. He wanted that to be a matter of public record. He advised the first public hearing was the open public hearing from the December meeting. He asked Planning Director Brian Frazier to the podium to discuss the rezoning petition.

Planning Director Brian Frazier presented a PowerPoint presentation. He advised the property owner in question for this application for Rezoning Petition 21-08 was Winkler's Grove Baptist Church. The applicant was Pastor Paul Deal. There were three parcels on 9th Avenue Drive NW that were proposed to be rezoned. The current zoning was R-1 that was the City of Hickory low-density residential. The property size was just over 13.5 acres. The rezoning request was intended to establish a new zone that would provide greater flexibility and any future development of the church campus. The applicant had requested to rezone the properties to neighborhood center commercial, otherwise known as NC. He referred to the PowerPoint map and pointed out the three parcels in question. He pointed out the industrial area, the airport, Goat Farm Road, Hickory Airport Road, and the low-density residential area currently. The next slide was current zoning. He pointed out the area both future and current zoning and the low-density residential in both future and current zoning, and the three parcels in question to be considered for rezoning. He displayed the aerial ortho map of the three parcels in question pointing out the church campus, the church of course owned this, and they also owned to the south side of 9th Avenue Drive, but they were only looking at considering these three parcels for the rezoning this evening. He pointed out the northern area of the airport runway. He displayed some examples of what was allowed in the R-1 low-density residential and the neighborhood center commercial. You could have detached single family residential, duplexes, mobile homes, churches, all governmental type uses, agriculture as well. They were not totally taking into consideration all of the uses, there were many uses, these were just some examples. In the NC you could have townhomes, duplexes, and apartments, you could also have medical professional uses, all kinds of retail sales, professional services, churches, and the ancillary uses associated with such, and all governmental uses, for example, schools, fire, police stations and the like. The NC allowed commercial in nature where the R-1 low-density residential would not. The current property was zoned R-1 and was occupied by the church and its ancillary uses. The general area was classified as low-density residential by the Hickory by Choice 2030 Comprehensive Plan. The plan stated the following about low-density residential areas, "this land use categories intended to provide an area of transition between higher density housing in Hickory and the surrounding rural areas". The neighborhood commercial zoning district in this case was not listed as the implementing zoning district for the low-density classification. The proposed rezoning could serve as a transitional area between the current rural land uses and the industrial uses. He referred to the PowerPoint and noted the area on the slide with the airport to the south. Given these factors, the rezoning of the property, NC, was inconsistent with the findings and recommendations of Hickory by Choice 2030 but could provide a transitional zoning district as he mentioned between the current low-density residential and the neighboring industrial land uses such as the airport. In terms of findings, staff found that the Rezoning Petition 21-08 was inconsistent with Hickory by Choice, but the findings of inconsistency were clearly outlined. The rezoning of the properties to the NC district could provide a transitional area between the industrial uses with the airport and the lower intensity residential uses in the church area. Staff had made a recommendation to the Planning Commission. It was a favorable recommendation to recommend the approval of the rezoning. The Planning Commission conducted a public hearing the first of December to consider the rezoning petition. During the public hearing there was one representative, he believed a deacon of the church, who spoke in favor of the petition. No citizen spoke in any opposition. Upon closing the public hearing, the Planning Commission voted 6-3 to affirm the petitions inconsistency with Hickory by Choice 2030 and recommended that City Council deny such rezoning petition. He asked Council for any questions.

Mayor Guess asked if Council was to recommend and approve rezoning this particular area, did it in any way cause any harm or was there anything that it

would do to prohibit any potential development from the City of Hickory in the future.

Planning Director Brian Frazier responded no sir, he did not believe it would. It would add additional opportunities for the development of that specific area.

Alderwoman Williams asked if Mr. Frazier was given any specifics in terms of types of development the church was interested in for future planning establishing.

Planning Director Brian Frazier thought that the applicant may speak better to that, but they had talked about pretty much ancillary type uses of the church, to preach. He thought they mentioned about spreading the word and just serving their congregation and the local community with uses that would be accessory or ancillary to the church, but as the one slide indicated with the NC that he showed previously there were other options there for professional office, retail uses, as well as other types of residential.

Alderwoman Patton commented that there was actually no plan, they just want to rezone it without knowing what was going to go there.

Planning Director Brian Frazier replied right. He advised they did not express at the hearing any specific purpose, or new building or project that they wished to do. That was correct.

Alderwoman Patton thought that it said the future would give greater flexibility for future development on the campus. She asked what would not be allowed on the campus that was already allowed just because they are a church. What type of ancillary services could a church offer that would not be allowed in R-1?

Planning Director Brian Frazier replied churches were allowed by right in every zoning district within the City as they well knew. And most of the ancillary uses were as well of a church. It gets a little complicated, which was above his pay grade, out of his realm of knowledge and responsibility in terms of churches owning businesses whether they were taxed as a private enterprise or were they considered part of the church and not taxed. He was not sure that he had directly addressed her question because at this time they do not have a specific proposal. If anything was ancillary to the church other than a for-profit business, there would not be any change.

Alderwoman Patton commented they could do anything as is.

Planning Director Brian Frazier responded correct.

Alderman Wood asked Mr. Frazier based on his knowledge of Hickory by Choice 2030 and the Land Development Code, in his opinion, did the Planning Commission err in their application of those two documents, or guidelines in their decision.

Planning Director Brian Frazier was not so sure that they that they erred. It was one of those ones where he did not have a vote, he just made a professional recommendation based on his education and experience. He thought that there was some concern, for example, you have the Land Development Code was a City ordinance. It was law. You have Hickory by Choice which was the blueprint for future growth and orderly development of the City of Hickory, but it was not law, it was a guiding blueprint and a statement. The document was meant to be fluid. City staff makes recommendations to the Planning Commission and hence to Council every year on the Land Development Code and revisions to the Hickory by Choice Plan. The plan itself being fluid based upon economic conditions, growth, demographics, etcetera. He was not sure that they erred, but he thought when they heard the term inconsistent with the Hickory by Choice Plan, that it should not happen.

Alderman Wood commented that was their guidelines. That was their measure.

Planning Director Brian Frazier commented Hickory by Choice was a fluid document. It was meant to be changed, and revised, it was not the law.

Alderwoman Williams commented that she had not been on the Council that long, but it seemed when they get rezoning requests, there was usually a specific project or development that initiates that process. She was wondering if it was too premature, until the church comes up with something, they could maybe not rezone and when they have an established project that fits in with the rezoning,

she would be more likely to look at that and probably the Planning Commission as well.

Planning Director Brian Frazier understood and respected that. Most proposals, the majority of proposals that do come to staff and hence to the Planning Commission, then hence to this elected body, do have specific proposals. During the course of his tenure in the City, and of course of his career, he had seen it where it was generalistic like that and there were times in the past where Planning staff had brought to the Planning Commission and to Council areas that they believed needed to be rezoned to plan for the future growth and development. One problem that they all had seen in Hickory over the years and his staff had tried to address that. The City had addressed that successfully in most instances. Years ago, there were not many transitory districts. They had industrial abutting an R-2, abutting a commercial, and now they like to see it where it was low-density, medium-density, neighborhood commercial, that progression. The church felt like, and staff felt like this was a possibility. He understood the realization that there was no specific plan associated with this proposal, which was unusual, but not inconsistent, but it does happen.

Alderman Williams commented this still would allow the church, even though there were not any plans or whatnot, it would allow them the opportunity in the future to do some type of project, but regardless of which they would still have to adhere to the City codes and ordinances and do everything that was required within the neighborhood center commercial. Correct?

Planning Director Brian Frazier replied that was absolutely correct.

Alderman Williams commented that it really would not hurt anything if Council were to rezone them to that.

Planning Director Brian Frazier advised they would have a chance to develop their church property for the religious type uses as they do now. They would have a chance to possibly subdivide, do a lot line combination and sell part of the property for development to a private entity but whether it be a private entity or that religious institution as we know now, yes, he was absolutely correct. They would have to follow all Federal, State, and local guidelines and statutes.

Alderman Williams commented it would just give them that opportunity to be able to have that flexibility with the property.

Planning Director Brian Frazier responded yes, sir. That was correct.

Alderman Wood commented based upon the definition of neighborhood center commercial, it looked like this was oriented towards making it more pedestrian friendly. That was the purpose of this zoning designation.

Planning Director Brian Frazier advised that was one of the purposes outlined in Hickory by Choice, yes sir.

Alderman Wood asked if there was anything other than making it more pedestrian friendly, any other significant changes between R-1 and this other than that.

Planning Director Brian Frazier advised it would allow more flexibility, more types of businesses, more flexibility in the type of housing that was allowed there. It would be more of a mix, and you would be able to have a provision of services to any new residential growth that could be spurred on by this economy or growth at the airport or the trail system.

Alderman Wood asked if the City had churches that owned strip malls here and leased them out.

Planning Director Brian Frazier replied several.

Mayor Guess asked for any further questions from Council. He thanked Mr. Frazier. He advised this was a continuation of the public hearing that Council had their last meeting in December of last year. There was no need to open the public hearing because it remained open from Council's last meeting. He reminded everyone of the rules pertaining to the City's public hearing. He asked if there was anyone in the audience who would like to speak in opposition to the rezoning proposal. No one appeared. He advised that Pastor Paul Deal had signed up to speak in favor. He asked Pastor Deal to the podium.

Pastor Paul Deal, 2822 ET Camp Road, Morganton, advised he was the Pastor of Winkler's Grove Baptist Church. He appreciated Council allowing him to come before them and express their desires. He wanted to clarify something before he got into his information. He asked if there was a clock where he could watch his time. Deputy City Clerk Crystal Mundy showed Pastor Deal the clock used for timing. He asked for a two-minute warning. He wanted to make sure that he covered everything and that everything was clear. He thanked Council for the opportunity to come before them on behalf of his church, Winkler's Grove Baptist Church. Their church was different. Their church was kind of in a situation that they probably do not run into much with the City of Hickory. He explained that their church was located in Burke County. He asked for a map. He advised they were located in Burke County in the ETJ (extra territorial jurisdiction) of the City of Hickory because of the airport. He referred to the map and pointed out all the land that the church owned on the right side of the road. He advised going away from the airport, it was all of the property on the right, but they also owned quite a bit of property almost the same amount on the opposite side of the road that was not highlighted. For a quarter of a mile they owned the property on both sides of the road. He said that to make a point in just a few minutes. They were connected to the City of Hickory by the airport. Their land connected with the airport. He reiterated they were in Burke County.

Pastor Paul Deal discussed the ETJ. He was not going to debate that tonight because that had been debated in a lot of courts through the years. There had been some lawsuits won and all that stuff, but he was not going to debate that. He mentioned ETJ just for the practical purposes. In 1963, the ETJ concept was created by a Texas Legislator. The purpose of it was to promote and protect the general health, safety, and welfare of persons residing in an adjacent to the cities. He thought that was pretty interesting because they agreed with everything there. The purpose of the church was that very purpose to protect. They were looking out for the general health, the safety, and the welfare of persons. They were just doing it on a different level. They were doing it on a spiritual level and, on a physical level. They agreed 100 percent on the definition of ETJ and the reasons that it was created back in 1963. The same State that came up with this, it was stated, should a city in Texas annex an area for a limited purpose the ETJ the city does not extend with the annexation. He knew that had been debated across the land and that was fine. He wanted to make that statement just so they would have something to go by tonight. They were not asking tonight to be removed from the ETJ. They were asking Council to help them accomplish what they want to accomplish as a church.

Pastor Paul Deal advised Winkler's Grove Baptist Church was established in 1896, 126 years they celebrate this year. In 1889, the Town of Hickory was first called the City of Hickory. In 1940, the Hickory Municipal Airport was opened. He mentioned they could see how long the church had been there, seven years after the City of Hickory was established as a city. They had been there a long time. Thankfully he had not been there that long, but they had been there a long time. The airport came along in 1940 and with the airport coming it pulled them into the ETJ. He noted they had been established long before that. He wanted to point that out tonight only for the reason that he hoped that information would be considered in this meeting to allow them to carry on with the things that they want to carry on with.

Pastor Paul Deal discussed the definition of zoning because he was amazed when he began to read the definition of zoning. When he found out as far as commercial zoning, he wanted to give them the definition and they all knew this, he was sure. But it meant an area allowed for commercial activities like retail stores and offices. Another definition of commercial zoning, while residential properties were exclusively used for private living quarters, commercial refers to any properties used for business activities. Commercial referred to hospitals, assembly plants, they saw it previously when it was presented by Mr. Frazier. It also meant office spaces and any other entities for business enterprise. He commented Winkler's Grove Baptist Church was already considered commercial by the Federal government and were considered commercial in that they have to conform to all of the IRS laws as a commercial entity. They have to conform to the IRS State laws as a commercial entity. As a business they have to follow the guidelines set forth by the State and the Federal laws under employee regulations. As a Pastor they have to follow all the employee regulations that the State of North Carolina requires them as a commercial entity. On the property they have a commercial kitchen in the fellowship hall. They put it in there as a commercial kitchen that was used for such things as receptions, weddings, special events such as women's events, children's events, men's events, not just for the church, but other entities. This March they would be hosting for the Pregnancy Care Center. It had nothing to do with their church, but they were offering it as an opportunity to help another institution outside of their church as a

lot of commercial entities do. Sometime back they had a men's breakfast honoring Chief Justice Paul Newby with the Supreme Court of North Carolina. As described in the definition of commercial zoning and even with the Hickory Daily Records description back on the 23rd of December, they have a commercial office building. Not just one, but many all over their property. They have a commercial office building that was constructed by a commercial contractor. He was saying this not to be belligerent or anything like that, but he wanted to give a clear understanding of what they have had to conform to on a commercial basis. They had to allow their office building to be constructed as a commercial office building constructed by a commercial contractor and was at that time regulated during the construction by the City of Hickory inspectors as a commercial building, along with the Inspectors of Burke County where their church was located. In this building they have employees carrying out the daily responsibilities of church business of getting people saved and helping to change many people's lives. The other day they had an 85-year-old man that came to Christ and got saved in the church. Just a few Sundays ago, they had a 75-year-old man come to Christ and get saved in the church. They just had two boys from New York City come down because they were listening to their programs, and they came down to their church for a few weeks. Both of those boys gave their lives to Jesus Christ. That was what they were in the business for. To say it was commercial, sometimes it may sound like an oxymoron, but that was what they have had to conform to being in the ETJ of Hickory. They also have cemeteries on both sides of the road. They have another 3,000 square foot building that they refer to as the refuge building that they accommodate evangelists and other missionaries that are traveling through and need a place. They have another building which was approximately 75,000 square feet for the sole purpose of education. This building was three stories which also fits in the description of commercial zoning. There were two more buildings on the property that was used solely for the purpose of storage, also described in the definition of commercial zoning. The main building was the largest of them all and would seat 1,062 people and in no possible way could it be identified as residential in the discussion of zoning. They own property on both sides of the highway for approximately a quarter of a mile. As it was already stated they own almost 14-15 acres, on one side, the other side they have more acreage. There was blacktop asphalt parking on both sides of the road. In the lower parking lot, there was a garage which housed two vans and a 47-passenger diesel bus. In the near future their hopes were to expand in their buildings capacity and upgrading the grounds which consists of flagpoles, lighting and signage and more parking. While it was true that they were already commercial in their nature, as far as description was concerned, they have absolutely no intentions of opening a retail store or business or such as described by the latter report that he referenced to previously.

Pastor Paul Deal commented in conclusion he would like to say this, on a separate note, the State of North Carolina refused to put a sign up a few years ago when they requested for them to put a sign up for traffic to slow down because they have people that crosses that road from the office to the church and from the educational building at that time, they had youth that was crossing the road. The State of North Carolina Highway Department refused to put them a sign up. This was their response of why they would not do it. This was not a residential area. He reiterated if the Federal government and the State government and the State of North Carolina Highway Department does not see it as residential, he was asking Council tonight to rezone them to what they already were and that was commercial, residential commercial. He addressed Alderwoman William's statement. It had been stated a couple of times tonight that there had not been a clear indication of what their goals were, he wanted to clearly state something tonight. Right now, their church voted 100 percent to put a sign out in front of their church so that they could evangelize people that were passing up and down the street on both sides. They own the property on both sides for a quarter mile. There were people that that were way on down the road from them that walk up and down that road. If they could evangelize them with one verse that says, whosoever calls upon the name of the Lord shall be saved, they want to do that. Under R-1 they cannot because it was residential. Under R-2 being commercial that was what they are already, that would allow them to do that. There were some other things that they want to do. They want to enlarge their parking. They want to add some lighted flagpoles. In the months and the years-ahead they were looking to expand their fellowship hall. The Mayor could vouch for them tonight, they do not have enough room. They were looking to expand some of these already what would be defined as commercial buildings. In no way by rezoning them as commercial could he see it would hurt the 2030 project whatsoever. The only thing he could see it would do for it was helping and enhance it because they were so close to the airport right there. He asked Council for any questions.

Mayor Guess asked if there were any questions from Council for Pastor Deal.

Alderman Patton commented that Pastor Deal had said they were not going to be doing any retail and they just want to expand on the ancillary services that they were already doing. The real issue was they want a sign.

Pastor Paul Deal replied they want a sign, and they want to be able to expand in buildings. He was not quite sure what other restrictions R-1 residential would have on some of the things that they want to do. He knew they had experienced some restrictions when they built their office building and some other things that they had to deal with when they put in a drive through. These were things that he thought under the new rezoning they would not be affected by. But no, they have no plans whatsoever to do any kind of retail or anything like that. He advised in the fall their senior adults may have a yard sale or something like that to raise money for their seniors that do not have money for oil and gas and stuff like that. They try to raise money for any senior adults that are having a hard time with power bills and stuff like that, but no retail as what they would normally think.

Alderman Patton commented there was no real other development except for what the church was doing. They were not planning on retail that was allowed in NC, so it sort of boils down to, he had specifically said the signage, and that was the one that was denied to them a few weeks ago.

Alderman Williams asked if churches could not have signs.

Pastor Paul Deal advised under the R-1 they could not.

Alderman Williams commented they could have a sign.

Mayor Guess interjected they could have signs.

Pastor Paul Deal commented an LED sign in an R-1.

Alderman Williams commented to rezone for the LED sign.

Pastor Paul Deal advised this was where they were at. He was being upfront and honest as he could be with them. It was hard to understand because they were under ETJ because of the airport but they were in a separate County. Their County would allow them to have that, but whatever statute it was that Council has under the R-1 would not allow them to have that because they were defining it as a residential area. They were not residential. In their 15-16 acres, if they included the other side, it was not residential. The only house that was in that area was what used to be the parsonage, and no one lives there and that was what they were turning into the refuge house, in fact they almost have it completed now.

Alderman Wood commented on the northeast side, when you come around the runway there and approaching the church's property on the right, he asked if there was not a residence right there.

Pastor Paul Deal replied in the curve but not in eyeshot of where their signage would be.

Alderman Wood did not know that person obviously. He rode out there and looked. He asked if that person was aware of the plans? Have they been brought in? The information shared during the public hearing had been vague at best. He appreciated Pastor Deal sharing the details tonight that was important.

Pastor Paul Deal advised the sign that City staff put out in front of their church was there however long it was, and of course the write-up in the paper was there the 23rd. He had made a copy of it. It came out with a picture of their church with a description of church rezoning to be heard. There were two, obviously the yard announcement that was put up there. He asked how long the City posted that for? He displayed a copy of the publication and the write-up in the Hickory Daily Record that came out December 23rd.

Alderman Wood asked if the church had approached the resident there.

Pastor Paul Deal advised they had not approached them whatsoever.

Alderman Wood asked if they had any feel of what their opinion was.

Pastor Paul Deal replied there had never been any problem with that. In fact, they had not had any problem with any neighbors. They had some neighbors' way on down past the church and they try to minister to them and take them food and stuff when they have special occasions, and they have great relationships with their neighbors.

Alderman Wood appreciated Pastor Deal showing the details. If he was not sitting here and did not dig into the details, going from R-1 to NC would be meaningless to him. He thought that it was for the average citizen.

Pastor Paul Deal advised they have multiple neighbors that were church members and that was why they do not have an issue. He had not heard of any issues.

Alderman Wood asked if that person was a member of their church.

Pastor Paul Deal advised that one was not. The ones that used to live there, but these people just moved there about a year ago he thought. They had not had any issues or concerns whatsoever.

Alderman Wood thanked Pastor Deal.

Mayor Guess had one final question. He asked if the sign would be turned off at a certain time?

Pastor Paul Deal advised they would have the sign turned off at night after a service. Most of the use of the sign would be in the daytime, if they have scriptures or something like that, but probably, nine o'clock at night until eight o'clock in the morning or something like that.

Mayor Guess asked if there were any further questions from Council. He thanked Pastor Deal.

Pastor Paul Deal thanked Council for their time.

Mayor Guess asked if there was anyone else present who would like to speak that didn't have an opportunity to sign up in favor or opposed. No one else appeared. He declared the public hearing closed and asked if there was a motion or any further discussion.

Alderman Seaver moved, seconded by Alderman Williams approval of Rezoning Petition Number 21-08. Ayes: Alderman Wood, Alderman Seaver, Mayor Guess, and Alderman Williams; Nays: Alderwoman Williams, Alderman Zagaroli, and Alderwoman Patton. The motion carried 4-3.

ORDINANCE NO. 22-02

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 13.57 ACRES OF PROPERTY LOCATED AT 3320, 3326, 3330 AND 3342 9TH AVENUE DRIVE NW, FROM R-1 RESIDENTIAL TO NEIGHBORHOOD CENTER COMMERCIAL (NC).

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the City has been petitioned to rezone +/- 13.57 acres of property located at 3320, 3326, 3330 and 3342 9th Avenue Drive NW, more particularly described on Exhibit A attached hereto, to allow a Neighborhood Center Commercial (NC) district; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on December 1, 2021, and forwarded a recommendation of denial to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 21-08 to not be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HICKORY, NORTH CAROLINA, THAT THE REZONING OF THE PROPERTY LOCATED

AT 3320, 3326, 3330 AND 3342 9TH AVENUE DRIVE NW DESCRIBED IN EXHIBIT A IS APPROVED.

SECTION 1. Findings of fact.

1. The subject property is located at 3320, 3326, 3330 and 3342 9th Avenue Drive NW, and identified as PINs 2793-95-8491, 2783-95-6689 and 279395-3740 (Burke County)
2. The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
3. The rezoning of the property is inconsistent with the Hickory by Choice 2030 Comprehensive Plan.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

1. The general area is classified Low Density Residential by the Hickory by Choice 2030 Comprehensive Plan.
2. The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "this land use category is intended to provide an area of transition between higher density housing in Hickory and the surrounding rural areas..." (HBC 2030, Pg. 3.9).

The Neighborhood Center Commercial (NC) district is not listed as the implementing zoning district for the Low-Density Residential classification. The proposed rezoning would serve as a transition area between current rural land-uses and the industrial uses (Hickory Regional Airport) to the south.

Given these factors, the rezoning of the properties to NC is inconsistent with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan, but such a transitional zoning district as NC appears to be in keeping with good planning and land-use practices.

Given these factors, the rezoning of the property to Neighborhood Center Commercial (NC) should be considered consistent with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan.

3. The Neighborhood Commercial classification is intended to provide locations for neighborhood oriented commercial uses.
4. All improvements that are to take place on the property will be required to follow all applicable development regulations.
5. Sufficient public infrastructure is currently in place to handle the type of development possible on the subject property.
6. Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina; and
7. Any future development occurring on the subject property will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided to ensure surrounding residents, and property owners are properly protect as prescribed by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 21-08 to be inconsistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan, but a reasonable action.

SECTION 4. This Ordinance shall become effective upon adoption.

2. Approved the Consideration of a Voluntary Non-Contiguous Annexation of 55.49 Acres of Property Located on Spencer Road, between 30th Street Court NE and 31st Street Place NE, PIN 3723-15-63-5314 – Presentation by Planning Director Brian Frazier.

The Margaret H. Glaze, Josephine B. Hambrick Revocable Trust, and the Robert T. Hambrick Trust have petitioned for the voluntary non-contiguous annexation of 55.49 acres of property located on Spencer Road between 30th Street Court NE and 31st Street Place NE. The subject property is currently located within both Hickory's extra-territorial jurisdiction (ETJ) and Catawba County's jurisdiction. The annexation is being requested to gain access to City services. The subject property is currently zoned R-1 Residential by Hickory and R-20 Residential by Catawba County, and totals 55.49 acres in total size. The current county R-1 and R-20 zoning districts both permit one and two-family residential uses at a density of two dwelling units per acre. The subject property is currently vacant; however, the owners' intention is to develop the property for the construction of detached single-family residences. While preliminary development plans have not been provided, the property could theoretically yield +/-110 residential homes. The current tax value of the property is \$280,700. If annexed with its present value, the property would generate additional tax revenues of \$1,761. No indication has been given as to the potential value of any residential units. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 24, 2021.

City Manager Warren Wood asked Planning Director Brian Frazier to the podium to discuss the Voluntary Non-Contiguous Annexation of 55.49 acres of property located on Spencer Road, between 30th Street Court NE and 31st Street Place NE.

Planning Director Brian Frazier presented a PowerPoint presentation. He advised this project was a voluntary noncontiguous annexation. It was on Spencer Road and was just under 55.5 acres. The Ward would be Ward 3. The current land use was vacant. The future development would be proposed to be residential in nature. The annexation was being requested by the applicant to obtain connection to the City's sanitary sewer system. He displayed a map on the PowerPoint and pointed out the area being requested for annexation, the current City limits, and the extra territorial jurisdiction (ETJ), and the Catawba County zoning. He showed another map and pointed out the current City boundary and the area which was in question. He pointed out R-2 and R-1 areas and the County R-20 area. He advised they could see how some of the property here was County R-20. He pointed out the area which was R-1. He displayed an aerial map of the property in question. He pointed out Spencer Road, and Section House Road. The voluntary annexation petition complied with all applicable annexation statutes. It had been reviewed by staff and adequate public services had been deemed available in sufficient quantities. The annexation of the property they believed would not cause any public services to fall below acceptable levels. Based upon these findings the Planning staff recommended approval of the requested annexation.

Mayor Guess asked Council for any questions. He explained the same rules applied for all of the public hearings. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. He asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing. He asked for a motion or discussion.

Alderwoman Patton moved, seconded by Alderman Zagaroli approval of the Voluntary Non-Contiguous Annexation of 55.49 acres located on Spencer Road. The motion carried unanimously.

ANNEXATION ORDINANCE NO. 471
VOLUNTARY ANNEXATION ORDINANCE (NON-CONTIGUOUS)

Margaret Hambrick Glaze, Josephine B. Hambrick Revocable Trust and
Robert T. Hambrick Trust

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF HICKORY, NORTH CAROLINA, PURSUANT TO
GENERAL STATUTES 160A-58.1, AS AMENDED (NON-
CONTIGUOUS)

WHEREAS, the City Council of the City of Hickory desires to annex the area described herein, under G.S. 160A-58.1, as amended; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said annexation; and

WHEREAS, the City Clerk has certified to the sufficiency of said request, and a public hearing on the question of this annexation was held in the Council Chamber of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina, at 7:00 p.m. on the 4th day of January 2022; and

WHEREAS, the City Council of the City of Hickory further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the City of Hickory.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Hickory.
- c. The areas described are so situated that the City will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits.
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation.

WHEREAS, the City Council of the City of Hickory does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1, as amended have been complied with; and

WHEREAS, the City Council further finds that the annexation is otherwise valid, and that the public health, safety, and welfare of the City of Hickory and of the areas proposed for annexation will be best served by annexing the area herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following-described non-contiguous territory is hereby annexed and made a part of the City of Hickory as of the 31st day of January 2022:

SATELLITE ANNEXATION
BY THE CITY OF HICKORY
OF THE PROPERTY OF
JOSEPHINE B. HAMBRICK REVOCABLE TRUST,
ROBERT T. HAMBRICK TRUST, AND MARGARET HAMBRICK GLAZE

Beginning at a computed point on the northern right of way line of Spencer Rd. NE and being the southwest corner of Lot 1 Block "A" of Plat Book 19 Page 318 and being located N 45° 21' 15" E 230.75' from the intersection of Spencer Rd. NE and 31st Street Place NE, Thence from said beginning point and with the northern right of way line of Spencer Rd. NE N 52° 49' 41" W 497.71' to a computed point the southeast corner of Joshua Propst, Thence with the Propst line N 34° 35' 29" E 187.00' to a computed point, Thence continuing with the Propst line N 52° 49' 37" W 63.00' to a computed point in the Propst line and the southeast corner of Janet Hambrick, Thence with the Hambrick line N 16° 15' 00" E 400.00' to a computed point, Thence continuing with the Hambrick line N 52° 49' 37" W 603.75' to a computed point the northwest corner of Hambrick and in the southern line of Krista Kness, Thence with the Kness line and Linda Steelman's line N 16° 15' 00" E 1084.48' to a computed point in a creek the northeast corner of Steelman and in the southern line of Russell Hedrick, Thence with the creek and with the Hedrick line for the next (4) calls: (1) S 87° 54' 11" E 64.80' to a computed point, (2) S 69° 53' 05" E 128.90' to a computed point, (3) S 57° 13' 15" E 72.94' to a computed point, (4) N 86° 10' 43" E 62.18' to a computed point the southeast corner of Hedrick and the northwest corner of Andrew Huffman, Thence with the Huffman line for the next (3) calls: (1) S 56° 22' 09" E 686.07' to a computed point, (2) S 63° 03' 25" E 111.51' to a computed point in a creek, (3) N 26° 11' 32" E 889.06' to a computed point in the line of Huffman and the southwest corner of James Johnson, Thence with the Johnson line S 37° 51' 11" E 380.03' to a computed point, Thence continuing with the Johnson line and Linda Sigmon line S 08° 34' 48" E 427.45' to a computed point, Thence with the Sigmon line S 53° 19' 36" W 387.18' to a computed point corner

of Jerry Hoyle, Thence with the western line of Plat Book 19 Page 318 S 26° 15' 37" W 1395.02' to a computed point, Thence with the line of said Plat S 42° 43' 17" W 493.98' to the point and place of beginning. Containing 55.49 acres +/- according to a map by Honeycutt Land Surveying, PA. Entitled "Satellite Annexation by The City of Hickory known as: Josephine B. Hambrick Revocable Trust" dated 11/15/2021.

Section 2. Upon and after the 31st day of January 2022 the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hickory and shall be entitled to the same privileges and benefits as other parts of the City of Hickory. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10, as amended.

Section 3. The newly annexed territory described herein shall become part of Ward No. 3 of the City of Hickory.

Section 4. The Mayor of the City of Hickory shall cause to be recorded in the Office of the Register of Deeds of Catawba County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with duly certified copy of this Ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

ADOPTED THIS 4TH DAY OF JANUARY 2022.

3. Continued the Public Hearing for Consideration of Proposed Amendments to Chapter 21, Sections 21-8 and 21-9 of the Hickory City Code of Ordinance – Presentation by Deputy City Attorney Arnita Dula.

Staff requests Council's consideration of amendments to Chapter 21 Miscellaneous Offenses, Section 21-8.- Reserved and Section 21-9. - Imitating police whistle, fire siren, etc. of the Hickory Code of Ordinances. On September 10, 2021, Governor Cooper signed into law House Bill 890 ABC Omnibus Legislation (S.L. 2021-150). A provision in the bill amended G.S. 18B-904 by adding subsection (h) which allows permittees holding ABC permits for on-premises consumption of alcohol to extend their premises for the outdoor possession and consumption of alcohol. In order for permittees to extend their premises now, a city must adopt an ordinance authorizing the extension. Permittees must also meet several other requirements set forth in the subsection. There are two proposed amendments to Chapter 21. The first amendment is the addition of a substantive ordinance which will meet the statutory requirements to authorize permittees with on-premises ABC permits to extend their premises for the outdoor possession and consumption of alcohol. The new ordinance will be numbered as Section 21-9. – Extension of license premises. The second proposed amendment involves formatting changes. Current section 21-9. – Imitating police whistle, fire siren, etc. will be renumbered as Section 21-8. New Section 21-9 will be the substantive ordinance referenced in the preceding paragraph. The formatting changes will place the three sections related to alcohol together and will be outlines as follows: Sec. 21-8. – Imitating police whistle, fire siren, etc.; Sec. 21-9. – Extension of license premises; Sec. 21-10. - Alcoholic beverages – consumption on city property; social districts; and Sec. 21-11. – Malt beverages, wine, Hours of sale of beer or wine. Staff recommends Council consider and adopt amendments to Chapter 21 Miscellaneous Offenses, Sections 21-8 and 21-9 of the Code.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 24, 2021.

City Manager Warren Wood advised the third public hearing was for consideration of proposed amendments to Chapter 21, Section 21-8 and 21-9 of the Hickory Code of Ordinances. It was to be presented by Deputy City Attorney Arnita Dula, who had a death in her family. He asked Council to open the public hearing and continue it to a date certain, being the second regular meeting of City Council in January, (January 18, 2022).

Mayor Guess expressed Council's condolences to Deputy City Attorney Arnita Dula for the loss of her family member. He opened the public hearing and moved to continue the public hearing until the next Council meeting (January 18, 2022). Alderwoman Patton seconded the motion. The motion carried unanimously.

City Manager Warren Wood asked for special prayers for Deputy City Attorney Arnita Dula and her family as they had a lot of sorrow in the last few months.

4. Approved Consideration of a Resolution Directing that the Street Improvement Project be Undertaken for Property Located at 621 and 623 8th Street Drive NW, Hickory, Petition Number 21-01. – Presentation by Public Services Director Steve Miller.

The City Clerk received a petition from the owner of property along 8th Street Drive NW to install curb and gutter along a portion of their street as per Section 29-2 of the Hickory Code of Ordinances. The petitioner(s) represent a majority, greater than 50 percent of the property owner(s), as well as a majority greater than 50 percent of the property footage of the property frontage requested in the petition and therefore qualifies as a valid petition. On December 7, 2021, City Council approved the Resolution to hold a public hearing. The signature(s) on the petition represent 100 percent of the property owner(s) affected, who in turn represent 100 percent of the property footage affected. The City Clerk validated these numbers on the Certificate of Sufficiency. Staff recommends Council's approval of a Resolution directing that street improvement project be undertaken for petition number 21-01 that is requesting the City to construct curb and gutter along a portion of the 600 Block of 8th Street Drive NW.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 10, 2021.

City Manager Warren Wood asked Public Services Director Steve Miller to the podium to discuss a Resolution directing that the street improvement project be undertaken for property located at 621 and 623 8th St Drive NW, Petition No. 21-01.

Public Services Director Steve Miller presented a PowerPoint presentation. He apologized to Council for his presentation because he had forgotten his presentation and was going to have to wing it. He advised it was a Resolution directing the street improvement project be undertaken for property located at 621 and 623 8th Street Drive NW, Petition No. 21-01. The City Clerk received the petition from the property owner along 8th Street Drive NW to install curb and gutter on a portion of the street, per Section 29-2 of the Hickory Code of Ordinances. He referred to a map on the PowerPoint and pointed out the subject property. He advised it was the triangle piece on the map. It was actually two lots before where the house was and the triangle piece that went up 6th Avenue was owned by the same property owner. They had petitioned for the City to install curb and gutter along the frontage there and around the corner. Per the petition process they were able to that because it was both property owners which happened to be the same person, but it was a 100 percent petition, so there was no one affected but that property owner.

Mayor Guess asked Council for any questions. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. He asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing and asked for a motion or discussion.

Alderman Seaver moved, seconded by Alderwoman Williams approval of the Resolution directing the street improvement project be undertaken for petition number 21-01. The motion carried unanimously.

Resolution No. 22-03

Resolution Directing That Street Improvement Project Be Undertaken (Petition No. 21-01)

WHEREAS, on November 22, 2021, the property owners of 621 and 623 8th Street Drive NW, Hickory filed with the City Engineer of the City of Hickory a petition for improving said street by placing and constructing thereon curb and gutter according to plans and specifications on file in the office of the City Engineer; and

WHEREAS, the City Clerk has certified to the City Council of the City of Hickory that said petition is sufficient in all respects, the same having been duly signed by a majority in number of the owners, whose property represents a majority of all the lineal feet of frontage of the lands abutting upon the streets or portion of streets hereinabove described; and

WHEREAS, a Preliminary Assessment Resolution was adopted by this City Council and a public hearing thereon duly held.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

- 1. That a portion of 621 and 623 8th Street Drive NW, Hickory be improved by placing and constructing thereon curb and gutter under and by virtue of Chapter 160A, Article 10 of the General Statutes of North Carolina and the procedure therein established, and that said improvements be done by the City of Hickory or by contract after due notice and advertisement for bids, as outlined by Chapter 143, Section 129, of the General Statutes of North Carolina.
- 2. That 50 percent of the total cost of said improvement, exclusive of so much of the total costs as is incurred in improving the street intersections, be hereafter assessed upon the property receiving the improvements.
- 3. That the assessment herein provided for shall be payable in cash, or if any property owner shall so elect, in accordance with Chapter 160A, Sections 232 and 233 of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment in five (5) annual installments, said installments to bear interest at the rate of 8 percent per annum.

B. Departmental Reports:

- 1. Appointments to Boards and Commissions

CITIZENS ADVISORY COMMITTEE
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Small Cities Project Area VACANT

COMMUNITY APPEARANCE COMMISSION
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
At-Large (Outside City but within HRP) (Council Appoints) VACANT

COMMUNITY RELATIONS COUNCIL
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Other Minority (Council Appoints) VACANT
Other Minority (Council Appoints) VACANT
Other Minority (Council Appoints) VACANT
Differently Abled and is African American or Other Minority (Council Appoints) VACANT
Differently Abled (Council Appoints) Beth Whicker
(Not Eligible for Reappointment)

HISTORIC PRESERVATION COMMISSION
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
At-Large (2)(Council Appoints) Mary Moorer
(Eligible for Reappointment/Does Not Wish to Serve Again)

LIBRARY ADVISORY BOARD
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 1 (Wood Appoints) VACANT
(Dianne Straley no longer Eligible for Ward 1 due to Redistricting)
Ward 3 (Seaver Appoints) VACANT
(Beth Schauble Resigned 11-10-2021)

Alderman Wood nominated Lanie Wood as Ward 1 Representative for the Library Advisory Board.

PUBLIC ART COMMISSION
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 4 (D. Williams Appoints) VACANT
At-Large (Mayor Appoints) Beth Bowman
(Not Eligible for Reappointment)
At-Large (Mayor Appoints) (Harold Humphrey Resigned 11-4-2021) VACANT

RECREATION AND SPORTS TOURISM COMMISSION
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)
Ward 2 (C. Williams Appoints) (Unexpired term of Kenneth Sigler) VACANT

Alderwoman Williams nominated Michael McNally as Ward 2 Representative for the Recreation and Sports Tourism Commission.

YOUTH COUNCIL

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

Youth Council Applicant Review Committee Recommends the Following Appointments:

Fred T. Foard
Homeschool

VACANT
VACANT

Mayor Guess moved, seconded by Alderman Seaver approval of the above nominations. The motion carried unanimously.

C. Presentation of Petitions and Requests

1. The Hickory Fire Fighters Association requested to be put on City Council's January 4th agenda to make a presentation on, and to discuss "Firefighter Retention and Compensation; Community Safety Expectations." City Manager Warren Wood advised them that issues related to compensation have budgetary impacts so the appropriate course of action would be to follow the annual non-profit request process which is standard procedure for all non-profits in our community.

City Manager Warren Wood commented there was nothing in addition to what was noted in the agenda.

XII. Matters Not on Agenda (requires majority vote of Council to consider)

XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature

Alderman Seaver commented Happy 11th day of Christmas and Happy New Year.

Mayor Guess had not heard that one. He asked everyone to keep Deputy City Attorney Arnita Dula in their thoughts and prayers with the loss of a loved one just recently. He wished everyone a Happy New Year and wished everyone a safe and prosperous New Year. He commented if they did not like the weather, just wait 24-hours and maybe they would like the next cycle of the weather. He appreciated everyone being present tonight.

XIV. There being no further business, the meeting adjourned at 7:52 p.m.

Mayor

City Clerk